

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00307-MR-WCM**

LIBERTY MUTUAL INSURANCE)
COMPANY, as Administrator and)
Assignee of Developers Surety)
and Indemnity Company,)
)
 Plaintiff,)
)
vs.))
FIDELIS VETERAN CONSTRUCTION,)
INC., JOHN H. LEWIS, GERRI T.)
LEWIS, CHAD BROOKS, and)
SUSAN BROOKS,)
)
 Defendants.)
)

)

ORDER

THIS MATTER is before the Court *sua sponte*.

The Plaintiff initiated this action against the Defendants Fidelis Veteran Construction, Inc., John H. Lewis, Gerri T. Lewis, Chad Brooks, and Susan Brooks on October 29, 2020. [Doc. 1]. The Plaintiff has submitted an Affidavit of Service indicating that the Defendant Fidelis Veteran Construction, Inc. was served on November 9, 2020. [Doc. 4]. This Defendant, however, has not yet appeared or otherwise defended this action. The Plaintiff shall have fourteen (14) days from the entry of this Order to take any further action against Fidelis Veteran Construction, Inc. If no

further action is taken, this Defendant shall be dismissed from this action without prejudice.

Additionally, there is no indication in the record that the Defendants Chad Brooks and Susan Brooks have yet been served. Rule 4(m) of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

The Plaintiff is placed on notice that unless good cause is shown to the Court for its failure to effect service of the Summons and Complaint on the Defendants Chad Brooks and Susan Brooks within fourteen (14) days from service of this Order, the Plaintiff's action against these Defendants shall be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that the Plaintiff shall take further action to prosecute this case against the Defendant Fidelis Veteran Construction, Inc. within fourteen (14) days of this Order. Failure to take any

such further action shall result in the dismissal of this Defendant without prejudice.

IT IS FURTHER ORDERED that the Plaintiff shall show good cause within fourteen (14) days of service of this Order for the failure to effect service on the Defendants Chad Brooks and Susan Brooks. Failure of the Plaintiff to respond in writing within fourteen (14) days shall result in a dismissal without prejudice of these Defendants from this action.

IT IS SO ORDERED.

Signed: February 9, 2021



Martin Reidinger
Chief United States District Judge

